

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA

BONNIE SUMNER and FLOYD
WEARSTLER,

Plaintiffs,

v.

ALLSTATE FIRE AND CASUALTY
INSURANCE COMPANY, a foreign Insurance
Company,

Defendant.

No.

NOTICE OF REMOVAL

JURY DEMAND

TO: The Clerk of the Above-Entitled Court

Defendant Allstate Fire and Casualty Insurance Company, by and through its undersigned attorneys, hereby gives notice and petitions for the removal of the above-referenced action, and in support thereof, states as follows:

1. Plaintiffs commenced the above-entitled action in the Superior Court of the State of Washington for Pierce County, under Cause No. 14-2-12477-1 on September 16, 2014. Plaintiffs served the defendant Allstate Fire and Casualty Insurance Company ("Allstate") through the Insurance Commissioner's office of the State of Washington on October 6, 2014. This action is now pending in that Court.

NOTICE OF REMOVAL

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KELLER ROHRBACK L.L.P.

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1 2. This notice is filed within 30 days after service of the Summons and Complaint on
2 Allstate pursuant to 28 U.S.C. § 1446(b), thus, this action can be removed to this Court.

3 3. This is a civil action originally filed in the Superior Court in and for Pierce County,
4 Washington on the basis that the defendant Allstate transacted business in Pierce County. On
5 information and belief, plaintiffs were residents of Pierce County, Washington at the time this
6 action was commenced and at the time this petition for removal was filed.

7 4. Defendant Allstate is an insurance company that was domiciled in the State of
8 Illinois at the time this action was commenced and at the time this petition for removal was filed.
9 Defendant Allstate is duly qualified to do business in the State of Washington. Allstate is the only
10 defendant in this action.

11 5. This is a civil action over which this Court has original jurisdiction under 28 U.S.C.
12 §1332, and is one which may be removed to this Court by the defendant under 28 U.S.C. §1441(b)
13 because it is a civil action between citizens of different states and the matter in controversy exceeds
14 \$75,000, exclusive of interest and costs. In this lawsuit, both plaintiffs are seeking underinsured
15 motorist (“UIM”) benefits under an insurance policy issued by defendant Allstate for injuries and
16 damages they allege resulted from an August 4, 2012 automobile accident. The complaint does
17 not set forth the dollar amount prayed for, but does set forth that the UIM limits available under
18 the Allstate policy are \$100,000 per person. The amount in controversy exceeds \$75,000,
19 exclusive of interest and costs, because plaintiff Bonnie Sumner’s lowest settlement demand to
20 resolve her UIM claim was payment of the UIM policy limits of \$100,000, plus a waiver by
21 Allstate of its Personal Injury Protection (“PIP”) subrogated interest in the amount of \$10,000 with
22 respect to her claim. Plaintiff Floyd Wearstler’s lowest settlement demand to resolve his UIM
23 claim was \$90,300, plus a waiver by Allstate of its PIP subrogated interest in the amount of
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1 \$10,000 with respect to his claim. In addition, both plaintiffs are also seeking damages for alleged
2 bad faith by Allstate in the handling of plaintiffs' UIM claims. Plaintiffs are seeking to recover
3 all legal expenses, including attorney's fees, costs and expenses, incurred in litigating their UIM
4 claim and the lawsuit they have filed against Allstate. Thus, defendant Allstate has a good faith
5 belief that the amount in controversy exceeds \$75,000.

6 6. The process and pleadings received by the defendant in this action are attached to
7 this notice as Exhibit A, collectively, and are incorporated herein by reference.
8

9 WHEREFORE, defendant Allstate Fire and Casualty Insurance Company gives notice and
10 requests that the above action now pending against it in the Superior Court of the State of
11 Washington for Pierce County be removed to the United States District Court for the Western
12 District of Washington at Tacoma, pursuant to 28 U.S.C. §1332, §1441, and §1446.

13 Defendant asks that this matter be tried before a jury.
14

15 DATED this 3rd day of November, 2014.
16

17 KELLER ROHRBACK L.L.P.
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19 By /s/ Irene M. Hecht

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Company
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NOTICE OF REMOVAL

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Certificate of Service

I certify that on November 3, 2014, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system. A copy of the **NOTICE OF REMOVAL** will be served on the individuals identified below via Legal Messenger.

Mr. Sam J. Fogerty
Sam J. Fogerty Attorney at Law, P.S.
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Email: SFogerty@comcast.net
Attorneys for Plaintiffs

DATED this 3rd day of November, 2014, at Seattle, Washington.

KELLER ROHRBACK L.L.P.

By /s/ Irene M. Hecht

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